

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 20th Day of November 1998

BEFORE

THE HON'BLE MR. JUSTICE A.M. FAROOQ

R.F.A.NO.235/1994

C/W. R.F.A.NOS.236/94, 237/94,

238/94 and 516/1994

BETWEEN:

IN R.F.A.235/94

Smt. Venkatalakshamma,
w/o late T.V. Bhaskar,
aged 68 years,
r/a. No.1/B,
I Cross, Wilson Garden,
Bangalore-27.

(By Sri. H.J. Sundar Kumar, Adv.)

IN R.F.A.236/94

S.R. Venkataramana Reddy,
aged about 56 years,
s/o Sri. Ramaiah,
r/a. Sulkunte village,
Varthur Hobli,
Bangalore South Tq.,

(By Sri. K.G.C. Prabhu, for
Sri. K.V. Kavisiddaiah, Adv.)

IN R.F.A.237/94

R. Nazir Ahmed,
s/o Abdul Rawoof,
Age: 45 years,
No.297, 7th main road,
Wilson Gardens,
Bangalore-27.

(By Sri. H.J. Sundar Kumar, Adv.)



IN R.F.A.238/94

Sri. M.R. Balakrishna Murthy,
s/o Ramachandrappa,
age: 58 years,
No.298, 7th main road,
Wilson Gardens,
Bangalore-27.

Since dead by L.Rs

1. Smt. Sarojamma,
w/o M.R. Balakrishna Murthy,
aged 54 years,
No.298, 7th main road,
Wilson Garden,
Bangalore-27.
2. M. Hemanth Kumar,
s/o M.R. Balakrishna Murthy,
3. M. Vishwanath,
s/o M.R. Balakrishna Murthy,
aged 24 years,
4. Smt. Vimala,
w/o Sampangiramaiah and
d/o M.R. Balakrishna Murthy,
aged 28 years,
Naganayakanahalli,
Hosur Road,
Bangalore-30.
5. Smt. Rukmini,
aged 26 years,
w/o Sriramu,
d/o M.R. Balakrishna Murthy,
Hanganagondim
Gowribidanur Road,
Chikkaballapur.
6. Smt. Leelamba,
w/o Lingaraj and
d/o M.R. Balakrishna Murthy,
aged 21 years,
No.52, 6th cross
Mysore Road, Chamarajpet,
Bangalore.



7. Smt. Manjula,
d/o M.R. Balakrishna Murthy,
aged 19 years,
No.298, 7th main road,
Wilson Garden,
Bangalore-27.

Applicants 2 and 3 are
r/a. No.298, 7th main road,
Wilson Garden,
Bangalore-27.

(By Sri. H.J. Sundar Kumar, Adv.)

IN R.F.A.516/94

The Chairman,
Bangalore Development Authority,
T. Chowdiah Road,
Kumarapark West,
Bangalore-20.

...APPELLANTS

(By Sri. R.S. Hegde, Adv.)

AND:

COMMON IN R.F.A.Nos. 235/94,
236/94, 237/94, 238/94 and 516/94

1. O.N.V. Raman,
major,
s/o Sri. O.V. Narasimha Setty,
No.974, 13th cross,
B.S.K.II Stage,
Bangalore-70.
2. O.N.V. Krishnan,
major,
s/o Sri. O.V. Narasimha Setty,
No.974, 13th cross,
B.S.K.II Stage,
Bangalore-70

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3. S.A. Krishnappa,
major,
s/o K.A. Annayyappa,
since dead by L.Rs.

a. Jayalakshamma,

b. Kumar,

c. Manju,

d. Vimala,

e. Vanitha,

Respondents 3(a) to (e) are wife,
sons and daughters of late
Sri. S.A. Krishnappa,
All are majors and
r/a.No.12/2 (Old No.223),
12th cross,
Wilson Garden,
Bangalore-27.

(By Sri. B.N. Anantha Narayana, Adv.
for R-1 & 2,

Sri. K.S. Settur, Adv. for R-3(a) to (e)

IN R.F.A.235/94

4. M.R. Balakrishna Murthy,
major,
No.298,
7th main road,
Wilson Gardens,
Bangalore-27.

5. Gurulingappa,
major,
No.37, 6th cross,
Wilson Gardens,
Bangalore-27.

6. Abdul Jabbar, major,
s/o Shaik Ibrahim,)
Watchman, KSRTC, No.1,) deleted as per
14th cross, wilson garden,) C/O. dt.27-5-98
Bangalore-27.



7. Chairman,
Bangalore Development
Authority,
Kumara Park West,
Bangalore-20.

8. The Commissioner,
Corporation of the
City of Bangalore,
Bangalore-2.

9. R. Nazir Ahmed,
major,
No.297, 7th main
road, Wilson Garden,
Bangalore-27.

10. S.R. Venkatarama Reddy,
s/o Ramaiah,
major,
Sulikunte Village,
Varthur Hobli,
Bangalore South Tq.,

(By Sri. R.S. Hegde, Adv. for R-7,
Sri. B.P. Putta Siddaiah and
Sri. V.N. Gnanashekar, Adv. for R-8,
Sri. H.J. Sundar Kumar, Adv. for R-9,
Sri. K.G.C. Prabhu, Adv. for R-10)

Respondent-4 Common in R.F.A.236/94,
237/94, 516/94(as in R.F.A.235/94)

IN R.F.A.236/94

5. Smt. M. Venkatalakshamma,
Hindu, major,
w/o late T.V. Bhaskar,
No.3, 1st cross,
Wilson Garden,
Bangalore-27.

6. Sri. Gurulingappa,
No.37, 6th cross,
Wilson Gardens,
Bangalore-27.



7. Abdul Jabbar,
s/o Shiek Ibrahim,) deleted vide
No.1, 14th Cross,) C/O. dt.27-5-98
Wilson Gardens,)
Bangalore-27.
8. Chairman,
Bangalore Development Authority,
Bangalore.
9. The Commissioner,
Corporation of the City
of Bangalore, Bangalore.
10. R. Nazir Ahmed,
major,
No.297, 7th main road,
Wilson Gardens,
Bangalore-27.

(By Sri. Sundar Kumar.H.J. Adv.
for R-5 & 10,
Sri. R.S. Hegde, Adv. for R-8,
Sri. V.A. Gnanshekar, Adv. for R-9)

IN R.F.A.237/94

5. T.V. Bhaskar,
dead by L.R.
Smt. Venkatalakshamma,
aged 68 years,
No.299, 7th main road,
Wilson Gardens,
Bangalore-27.
6. Smt. Venkatalakshamma,
w/o late T.V. Bhaskar,
aged 68 years,
No.299, 7th main,
Wilson Gardens,
Bangalore-27.
7. Gurulingappa,
major,
No.37, 6th Cross,
Wilson Gardens,
Bangalore-27.



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8. Abdul Jabbar,
major,
s/o Shaik Ibrahim,
Watchman, K.S.R.T.C.,) deleted vide
No.1, 14th cross,) order dt. 27-5-98
Wilson Gardens,
Bangalore-27.
9. Chairman,
Bangalore Development Authority,
Kumara Park West,
Bangalore-20.
10. The Commissioner,
Corporation of the City of
Bangalore, Bangalore-2.
11. S.R. Venkatarama Reddy,
s/o Ramaiah,
major,
Sulikunte village,
Varthur Hobli,
Bangalore South Tq.,

(By Sri. R.S. Hegde, Adv. for R-9,
Sri. K.G.C. Prabhu, Adv. for R-11,
Sri. V.A. Gnanashekar, Adv. for R-10,
Sri. H.J. Sundar Kumar, Adv. for R-5)

IN R.F.A.238/94

4. T.V. Bhaskar,
dead by L.R. Smt. Venkata
lakshamma,
w/o T.V. Bhaskar,
No.299, 7th main road,
Lakkasandra Extension,
Wilson Garden,
Bangalore-27.
5. Smt. Venkatalakshamma,
w/o late T.V. Bhaskar,
No.299, 7th main road,
Lakkasandra Extension,
Wilson Garden,
Bangalore-27.



6. Gurulingappa,
major,
No.37, 6th cross,
Wilson Garden,
Bangalore-27.
7. Abdul Jabbar,
major,
s/o Shaik Ibrahim,
Watchman,
K.S.R.T.C.,
No.1, 14th cross,
Wilson Gardens,
Bangalore-27.
8. Chairman,
Bangalore Development
Authority,
Kumara Park West,
Bangalore-20.
9. The Commissioner,
Corporation of the City
of Bangalore,
Bangalore-2.
10. R. Nazir Ahmed,
major,
No.297, 7th main road,
Wilson Gardens,
Bangalore-27.
11. S.R. Venkatarama Reddy,
s/o Ramaiah,
major,
Sulikunte village,
Verthur Hobli,
Bangalore South Tq.,
(By Sri. R.S. Hegde, Adv. for R-8,
Sri. K.G.C. Prabhu, Adv. for R-11,
Sri. V.A. Gnanashekar, Adv. for R-9,
Sri. H.J. Sundar Kumar, Adv. for R-4 & 5)

IN R.F.A.516/94

5. T.V. Bhaskar,
major, KSRTC Driver,
No.3, 1st cross,
Wilson Garden,
Bangalore-27.

6. Mrs. M. Venkatalakshamma,
major,
w/o T.V. Shankar,
r/a. No.3, 1st cross,
Wilson Garden,
Bangalore-27.
7. Mr. Gurulingappa,
major,
Advocate,
No.37, 6th cross,
Wilson Garden,
Bangalore-27.
8. Sri. Abdul Jabbar,
major,
c/o. Shait Ibrahim,
Watchman, KSRTC,
No.1, 14th cross,
Wilson Garden,
Bangalore-27.
9. The Commissioner,
Corporation of Bangalore City,
Bangalore.
10. R. Nazir Ahmed,
major,
No.297, 7th main road,
Wilson Garden,
Bangalore-27.
11. Sri. S.R. Venkataramana Reddy,
major, s/o Ramaiah,
r/o Sulakunte village,
Varthur Hobli,
Bangalore South Tq.,
Bangalore Dist.,

...RESPONDENTS

(By Sri. K.M. Puttegowda, Adv. for R-9,
Sri. K.G.C. Prabhu, Adv. for R-11,
Sri. H.J. Sundar Kumar, Adv. for R-4,6,10)



These Regular First Appeals are filed u/s.96 r/w. order 41 Rules 1 & 2 of the CPC, against the Judgment & Decree dtd.25-2-94 in O.S.No.1421/80 on the file of the VII Addl. City Civil & Sessions Judge (CCH.20), Bangalore, Decreeing the suit of the plaintiff and declaring that both the plaintiffs are the owners in juridical possession of the suit properties.

These Regular First Appeals coming on for further hearing this day, the Court delivered the following:-

JUDGMENT

All these regular first appeals are connected in the sense, all these appeals have been filed by different defendants in O.S.No.1421/80 on the file of the X Addl. City Civil Court, Bangalore. The appellants in R.F.A.239/94 are the Legal Representatives of Second defendant. Appellant in R.F.A.516/94 is the defendant 12(a). Appellant in R.F.A.237/94 is defendant 12(c) and appellant in R.F.A.236/94 is the applicant-defendant. The suit was originally filed in the year 1975 as O.S.No.95/75 before the learned II Munsiff, Bangalore City. Because of territorial jurisdiction, the plaint was returned and it was represented before the Munsiff Court, Mayo Hall, Bangalore on 20-9-1976 and it was numbered as O.S.No.537/76 and later on, after coming into force of the City Civil Court Act, the present number was given to the suit. It is stated that originally the suit was filed as a mere suit for perpetual injunction and later on by amendment, prayer for declaration was also sought for. As it



stood on the date of disposal, the suit was one for declaration, possession and injunction along with other reliefs.

2. Respondents 1 and 2 in these appeals are the plaintiffs who instituted the suit. ^NThe Two plaintiffs are the sons of Sri. O.V. Narasimha Setty, whose father Olety Venkataramaiah originally purchased the property in question under registered Sal Deed-Ex.P-1 in the year 1942. He died on 26-1-1961 leaving behind him the father of the present plaintiff and others. The case of the plaintiffs is that the suit schedule property which is Survey No.17/1-D of Lakkasandra village which totally measures 4-3/4 guntas. According to^u the plaintiffs, after the death of the original owner, their grandfather, there was a partition Deed dated 28-8-1972 between the plaintiffs, their father, brothers and sisters and 2-1/2 guntas has fallen to the share of plaintiff No.1 and 2-1/4 guntas of the suit land has fallen to the share of plaintiff No.2. It is stated that the defendants who had absolutely no right, title or interest in the suit schedule properties, tried to disturb the lawful possession of the plaintiff and therefore, the

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plaintiffs filed the suit for declaration and perpetual injunction. It is stated in the plaint that the 2nd defendant has put up construction after the institution of the suit despite the interim order from the Court.

3. The defendants resisted the suit and the defence of all the defendants are almost same. The defendants denied that the plaintiffs are the owners of the suit schedule properties and submitted that the documents produced by the plaintiffs are concocted documents. According to the defendants, the entire land bearing Survey No.17/1-D which measures 1 acre 20 guntas has been acquired by the BDA, the erstwhile CITB in the year 1959 and final notification under Section 6 of the Land Acquisition Act has been issued and the original owner Olety Venkataramaiah has even taken the award amount and thereafter, the CITB had taken possession of the entire land and since then, the CITB and later on BDA who stepped into the shoes of the CITB, is the owner in possession of the land. It is stated that on 28-8-1972, when the alleged



Partition Deed-Ex.P-2 relied upon by the plaintiffs was executed, they had not title to the suit schedule property in view of the acquisition.

4. It is further stated by the ~~plaintiffs~~ ^{defendants} that eventhough they had purchased the property from the 1st defendant who in turn had got these properties under a registered sale deed from the erstwhile owner, subsequently, the CITB had released their possession by granting reconveyance -cum-allotment in their favour and it is further stated by the defendants that they have constructed houses in their respective sites and that the plaintiffs are not in possession of any piece of the schedule property. The defendants have prayed for dismissal of the suit.

5. During trial, two witnesses were examined on behalf of the plaintiffs apart from marking Ex.P.1 to Ex.P.18 and on behalf of the defendants, 5 witnesses were examined and 37 documents were marked. The Trial Court on appreciation of the evidence on record has held in favour of the plaintiffs on issues 1, 5 and 6 i.e., to the effect whether the plaintiffs were in



possession of the suit land on the date of suit and that they have title to the suit property. It negatived the defence taken by the defendants and decreed the suit declaring the plaintiffs as owners in possession of the suit properties and issued mandatory injunction to demolish all the constructions put up in the suit schedule properties and to handover vacant possession of the properties to the plaintiffs within 6 months and permanent injunction restraining the defendants from interfering with the possession and enjoyment of suit properties by the plaintiffs.

6. Sri.H.J.Sundar Kumar, Sri.K.G.C Prabhu, & Sri.R.S.Hegde, who appeared for the appellants in these appeals submitted that the reasonings adopted by the Trial Court to decree the suit is prima facie erroneous. In elaborating their contention, it is submitted that once the fact of acquisition has been proved by producing final notification issued U/s.6 of the Land Acquisition Act, acquiring the suit property with the further materials showing that an award has been passed subsequent to the acquisition and the name of the owner has been mentioned in all the proceedings in respect of the

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acquisition and when there is no denotification of the acquired land, the plaintiffs who are the heirs and legal representatives of the erstwhile owner who had lost the property after acquisition cannot ^{any} claim ^{right} over the property. They therefore ^{may} pleaded for dismissal of the suit.

7. On the otherhand, Sri. Ananth Narayana, learned counsel appearing for the respondents /plaintiffs in all the appeals, vehemently contended that eventhough the Trial Court has not ^{referred to} ~~differeed~~ to the various materials produced by the plaintiffs in the course of its judgment and the reasoning adopted by the Trial Court may not sound so reasonable, there are enough materials to prove that the suit lands have never been taken possession of by the erstwhile CITB and throughout the land has been in the possession and enjoyment of the plaintiffs.

8. When the matter was being heard today, the learned counsel appearing for the plaintiffs filed application under order 41 Rule 27 for production of certain documents and I have allowed the said applications and the documents have been



received on record and they have been marked as High Court Documents 1 to 5 and these documents will be considered in the course of this judgment alongwith other materials on record.

9. It is ^{not} ~~is~~ disputed and it cannot be disputed that there is a notification issued under Sec.6 of the Land Acquisition Act. Ex.D.35 is the copy of the said notification which is dt.15.7.59. The schedule property is shown in the said notification includes Sy.No.17/1D measuring 1 acre 20 guntas situated at Lakkasandra Village and the owners name is shown as Venkataramaiah Setty. It is not disputed that in the year 1959, the property was under the ownership of the said Venkataramaiah Setty who is none other than the grandfather of the plaintiffs. Under the said notification, the entire survey number measuring 1 acre 20 guntas ^{has been acquired} which included 1 gunta of kharab Ex.D.4 is the certified copy of the award passed in favour of the owner Venkataramaiah Setty. In the said award, it is clearly stated that notices under Sections 9 and 10 of the Land Acquisition Act has been issued to the Khatedar and served on him on 25-8-59 and claim petition has been received on 30-9-60. In para-8

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regarding the amount of compensation claimed and the apportionment applied for it is stated " The claimant prays for compensation of Rs.6/- per sq.yd. together with the statutory allowance at 15% and also requests that just enough land required for forming the road may be acquired and claimant permitted to retain the rest of the land [✓]converted and build quarters for staff and home industries". In the award, compensation has been calculated for 1 acre 19 guntas of non-kharab dry land at the rate of Rs.3,600/- per acre and for 1 gunta of kharab land at Rs.500/- per acre and alongwith the statutory allowances Rs.6,120-87 ps. was the award made. In the same award, compensation was directed to be paid to Sri.O.Venkataramaiah Setty, the grand father of the plaintiffs. Therefore, the acquisition proceedings have been completed and no further proceeding was required. In order for any body to claim the land which is acquired under the Land Acquisition Act, it can be only by way of allotment or sale from the Government or the CIIB for whose benefit the land was acquired. No such document has been produced by the plaintiffs in the suit.



10. However, Sri. Ananth Narayan, learned counsel for plaintiffs, who argued the matter very thoroughly contended that there is absolutely no materials produced by any of the defendants showing that possession of the acquired land was taken by the CITB at any time and further there is no materials to show that the CITB has formed the lay-out in the schedule land. On the otherhand, the document Ex.P.4 and P.5 dt.25.4.60 and 16.10.60 respectively, show that no objection for conversion of the suit land was ordered ^{by the concerned authority} subject to certain conditions including payment of lay out charges and the lay out charges have been assessed at Rs.21,780/-. ^{drawn} ~~He~~ ^{has} also ~~drawn~~ ^{drawn} my attention to the documents now produced alongwith the application.

11. H.C.D-1 dt.25/26-10-1960 addressed to the CITB by Sri.O.Venkataramaiah Setty in which ^{it} is stated that a cheque for the amount demanded towards the conversion charges has been enclosed. H.C.D-2 is ^{styled} ~~assailed~~ as an agreement in 1 Re.50 ps. non-judicial stamp paper which is signed by only Sri.O.Venkataramaiah Setty and it is dt.5.5.60. H.C.D-3 is dt.11-6-62 is a letter addressed to Sri.O.Venkataramaiah Setty by the CITB and the

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subject matter is conversion of land 17/D but, in between "1" seems to have been subsequently, inserted to show as if the land sought for conversion is the suit land 17/10. In the said order, the modified order has been passed towards the payment of lay out charges and it is noted therein that the amount of Rs.21,780/- has already been paid by the owner Venkataramaiah Setty. In H.C.D.4 dt.24-7-63, the father of the plaintiffs has addressed a letter to the CITB stating that a cheque for the modified amount has been enclosed. In document H.C.D-5, children of O.Venkataramaiah Setty have requested for issue of the possession certificate. In the last document H.C.D-6, the CITB., addressed a letter in favour of the plaintiffs with reference to the application suppose to have been made by them on 25.4.68 and it is stated that the question of transfer of sites by the CITB, does not arise.

12. Taking into consideration all these documents, it is submitted by Sri.Ananth Narayana, learned counsel appearing for the plaintiffs that if infact the suit schedule lands had been acquired for the CITB., these correspondences and orders would not have been passed by the CITB in respect

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of the same lands. Eventhough there seems to be some force logically in the argument addressed by the learned counsel, in view of the finality of the acquisition proceedings, any subsequent dealing made by the CITB in respect of the same lands without there being any reconveyance or allotment order specifically allotting or reconveying the acquired lands in favour of the plaintiffs or their predecessor in title, the plaintiffs cannot take advantage of these documents and contend that their rights have not been extinguished by the acquisition of the land.

13. It is nextly submitted by the learned counsel appearing for the plaintiffs that the 1st defendant-Krishnappa had purchased the property from the vendor of Sri.O.Venkataramaiah Setty after the vendor had already sold the land to Sri.O.Venkataramaiah Setty and therefore, the 1st defendant Krishnappa does not acquire any title or right over the suit property. Eventhough, there is much force in the submission made by the learned counsel appearing for the plaintiffs and if the matter had stood there itself without any further proceedings, ^{it is} ~~there~~ could ^{have been said to} ~~be a decision~~ that

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Krishnappa had no title to the property and the defendants who had purchased the property cannot claim any title. But, subsequently, knowing the defects in the sale deed in favour of their vendor, 1st defendant Krishnappa^{and ✓} the other defendants who have purchased the property from the 1st defendant approached the CITB and the CITB. has passed orders in their favour reconveying the sites purchased by the defendants to the defendants themselves. For this it was contended by the learned counsel appearing for the plaintiffs that there is no question of reconveying the sites to the defendants when no lands have been acquired from them. It is true that when the acquisition proceeding started and finalised, the vendors of the defendants have already lost their rights and title over the property and the question of any of their right remaining in the acquired land does not arise. But, however, when the lands has been acquired on behalf of the CITB., ^{under ✓} a valid ~~acquisition~~ ^{acquisition} the CITB has become the absolute owner of the property and under the ^{BDA ✓} Act they could allot or alienate any of their land to any person.

[Handwritten signature]

Therefore, reconveyance made in favour of the defendants could be treated as allotment orders in their favour.

14. It is further submitted by the learned counsel appearing for the plaintiffs that subsequent to the acquisition proceedings, the plaintiffs have treated the property as their^{own} property throughout and Ex.P.8 is the order passed by the Deputy Commissioner which is the competent Authority under the Karnataka Land Revenue Act as regards the entries made in the record of rights and in the said proceeding, the 1st defendant from whom the other defendants have purchased the sites[✓] was the contesting party and after considering the entire materials, the Deputy Commissioner has set aside the mutation made in the name of the 1st defendant. It is common knowledge that the mutation entry or any entry in the record of rights cannot^{be} held to be a document of title.

15. The only reason given by the learned Trial Judge to decree the suit is on the ground that even after acquisition, the revenue proceedings has gone on and subsequently entries

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has been made and the 1st defendant had challenged the entry and he has lost the case before the Revenue Authorities. The Trial Judge has not at all considered the effect of acquisition and the finality attached to acquisition proceedings under the Land Acquisition Act. The learned Civil Judge has not even referred to the acquisition proceedings. He seems to have no knowledge at all about the Land Acquisition Act. When there is a finality of acquisition proceedings, the same cannot be reopened by any other authority. The same cannot be questioned before any Court of Law. The only ground on which a party can say that inspite of the acquisition he has a right in the property is by producing any denotification U/s.48 of the Land Acquisition Act. No such notification has been produced by the plaintiffs. It is true as contended by Sri. Ananth Narayan, learned counsel for the plaintiffs, the CITB inspite of the finality of the acquisition proceedings has entertained certain petitions filed by the owners and directed them to pay lay out charges and accepted the amounts paid by the plaintiffs. But, merely because, the plaintiffs or their predecessor in title have been able to correspond with the CITB

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and made them to accept the amounts in view of conversion or lay out charges. the plaintiffs cannot claim any right over the property without producing any valid order of allotment or grant or lease cum sale made by the CITB in their favour. Eventhough, in Ex.H.C.D.5, the CITB has been requested to issue possession certificate, it is not the case of the plaintiffs that any such certificate has been issued in their favour.

16. There is yet another ground on which the plaintiffs suit should be dismissed. In the plaint, the plaintiffs have nowhere stated about the acquisition of the property by the CITB and there is no prayer at all in the plaint for setting aside or declaring the acquisition as invalid or not binding on the plaintiffs. Without declaring the acquisition as invalid or not binding, the plaintiffs are not entitled for any decree.

17. In ^{his} evidence, PW-2. father of the plaintiffs has admitted that all the appellants who are the defendants before the Trial Court were in



possession of the suit properties after they secured the reconveyance. In the cross-examination, this is what PW-2 has stated:-

" 10. There was a partition deed in respect of the partition between me and my brother. It is true to suggest that my wife Dhanalakshamma represented my children in the family partition taken place between me and my sons. At that time the suit land was agricultural land. This land was situated in Chinnaiannapalya Bangalore North Taluk. It is not true to suggest that this land was acquired. I do not know whether Land Acquisition Officer awarded Rs.6,000/- in respect of the suit property and my father appeared before the Land Acquisition Officer and requested to reconvey the property.

11. As per the partition took place between me and my sons, 4 and 3/4 guntas was given to my both sons. I cannot say which of the defendants are in possession of the land fallen to share of my sons in the partition. I have already sold away remaining portion of land measuring 1-15 and 1/4 guntas. I do not remember in whose favour I sold it away. I sold it away after 1965. It is true to suggest that the properties mentioned in 'J' schedule in Ex.P.2 were to be divided between me and my sons. It is not true to suggest that neither my father nor me nor my sons in possession of the suit property since it was already acquired by CITB. It is true to suggest that BDA issued notice in the year 1976, and I requested for the re-conveyance of the suit land. I do not remember whether my father or myself filed any application before Deputy Commissioner, Bangalore district for conversion of the land.

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12. I possess no documents showing that my father paid the taxes after in the year 1959 till his death. It is not true to suggest that neither my father, nor myself, nor brother nor my sons paid the taxes after 1959."

From the above evidence it clear that PW-2 had admitted that the appellant have obtained reconveyance deeds and that they are in possession of the suit property[✓] and they have built their houses and that plaintiffs are not in possession of any documents showing that after 1959, the year of acquisition, they had paid any tax in respect of the suit property and it is also admitted that in the year 1976 he himself had requested for reconveyance of the suit land and he also does not remember whether he or his father had filed any application for ^{conversion} ~~acquisition~~ of the land under the Karnataka Land Revenue Act.

18. On reconsideration of the entire materials on record, I am of the view that the reasoning adopted by the Trial Court in decreeing the suit is clearly perverse and the Trial Court has failed to consider the material documents and the evidence on record. In the result, I allow all these appeals and set aside the judgment and decree

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passed by the Trial Court and dismiss the suit. In the facts and circumstances of the case, there will be no order as to costs.

**Sd/-
JUDGE**

BNV/BVR*